TRANSMITTAL OF APPEAL BRIEF (Large Entity)	Docket No. ITL.0599US

In Re Application Of: **Anil K. Kumar**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
09/918,244	July 30, 2001	Christopher P. Grey	21906	2616	2277

Invention: **Supporting Both Packet and Circuit-Based Wireless Networks**
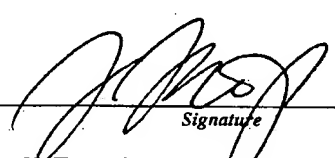
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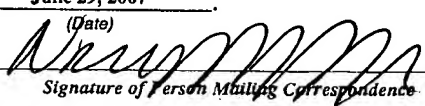
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Dated: June 29, 2007

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Applicant:	§	
Anil K. Kumar	§	Art Unit: 2616
	§	
Serial No.: 09/918,244	§	Examiner: Christopher P. Grey
	§	
Filed: July 30, 2001	§	Atty Docket: ITL.0599US
	§	P11740
For: Supporting Both Packet and	§	
Circuit-Based Wireless Networks	§	

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APPEAL BRIEF

TABLE OF CONTENTS

REAL PARTY IN INTEREST

The real party in interest is the assignee Intel Corporation.

RELATED APPEALS AND INTERFERENCES

None.

STATUS OF CLAIMS

Claims 1-16 (Rejected).

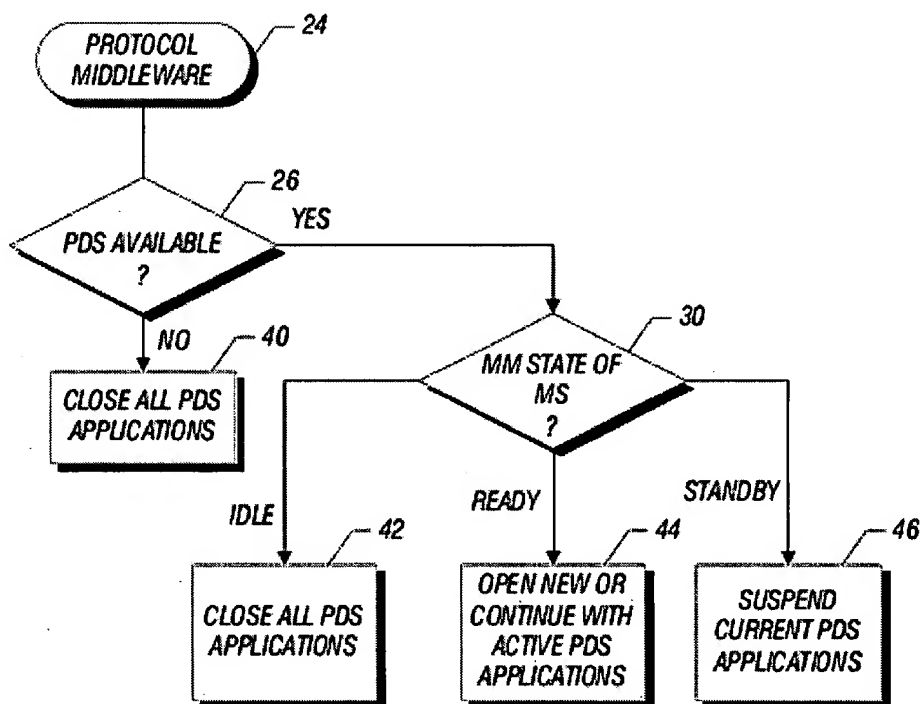Claims 1-16 are rejected and are the subject of this Appeal Brief.

STATUS OF AMENDMENTS

The amendments submitted in the Reply to Final Rejection of December 19, 2006 have not been entered.

In the following discussion, the independent claims are read on one of many possible embodiments without limiting the claims:

1.   A method comprising:

automatically closing packet data service application software if a mobility management state is idle (Figure 2, 42; specification at page 5, line 25 to page 6, line 1).

FIG. 2

5.   An article comprising:

a medium (Figure 1, 22; specification at page 6, line 25 to page 7, line 7) storing instructions (Figure 1, 24; specification at page 5, lines 16-22) that enable a processor-based system to:

if the mobile subscriber is in a packet data service network, determine the mobility management state of the mobile subscriber (Figure 2, 30; specification at page 5, lines 23-25); and

automatically close packet data service application software if the mobility management state is idle (Figure 2, 42; specification at page 5, line 25 to page 6, line 1).

9.   A cellular telephone comprising:

a processor (Figure 1, 28; specification at page 3, lines 18-25); and

a storage (Figure 1, 22) storing instructions that enable the processor, if the mobile subscriber is in a packet data service network, determine the mobility management state of the mobile subscriber and automatically close packet data service application software if the mobility management state is idle (Figure 2, block 42; specification at page 5, line 25-page 6, line 1).

At this point, no issue has been raised that would suggest that the words in the claims have any meaning other than their ordinary meanings. Nothing in this section should be taken as an indication that any claim term has a meaning other than its ordinary meaning.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Whether claims 1-4, 6, and 8 are indefinite under 35 U.S.C. § 112, second paragraph, for failing to point out and distinctly claim the subject matter of the invention.

B. Whether claims 5-8 are unpatentable under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

C. Whether claims 1, 2, 5, 6, 9-11, and 14 are anticipated under 35 U.S.C. § 102(e) by Hosain (US 7,092,696).

D. Whether claims 3, 7, and 15 are unpatentable under 35 U.S.C. § 103(a) over Hosain (US 7,092,696) in view of Walker (US 5,771,390).

E. Whether claims 4, 8, 12, 13, and 16 are unpatentable under 35 U.S.C. § 103(a) over Hosain (US 7,092,696) in view of Tuomainen (US 20010015963).

ARGUMENT

A.   Are claims 1-4, 6, and 8 indefinite under 35 U.S.C. § 112, second paragraph, for failing to point out and distinctly claim the subject matter of the invention?

Claim 1 is objected to as "vague and indefinite because it is not clear that the application software and mobility management state of what device is claimed. No device is claimed as having application software mobility management state." Final Rejection, item 2, second paragraph. Certainly this is strange since the claim is a method claim and does not require any apparatus. No explanation is ever provided as to why any device cannot be the object of the method of claim 1. Nothing in the claim that is unclear is identified. The claim could be worded "automatically closing packet service application software if a mobility management state is idle in a device". It is not seen how this would in any way enhance, clarify, or improve the claim. A device is implicit and asserting a device in the claim would not make much sense, would not help, and should not be required in a method claim.

With respect to claim 2, the question is asked whether the applications are "the same as the software in claim 1". The claim does not require that they be the same and thus they do not necessarily have to be the same.

Further, it is argued that it is not clear what is meant by "continuing with active packet data service applications" because no applications were previously claimed as being in use. The claim is a method claim. It calls for the method steps that are believed to be the invention. It need not specify every other peripheral service going on. It explains that you continue with active packet data service applications if the mobility management state is ready and the mobile subscriber is in a packet data service network. There need not be antecedent basis for the action in claim 1. Moreover, there is no requirement that a method claim set up every application in the system. The claim simply claims the act (which is part of the invention) of continuing with the active packet data service applications in some situations. There is no requirement that the method claim say that there is a device, and that the device has active packet data service applications, and then proceed to explain what the action that is being claimed is.

Therefore the rejection should be reversed.

10

B.   **Are claims 5-8 unpatentable under 35 U.S.C. § 101 as being directed to non-statutory subject matter?**

Claim 5 is rejected because the claim "is not capable of causing functional change". This rejection is untenable since the claim says that you determine the mobility management state of the mobile subscriber under certain circumstances. This is plainly a functional change.

Further, it is stated that the claim does not define any structural and functional interrelationship between the data structure. The claim calls for an article including a medium storing instructions that enable a processor-based system to do certain steps. There is no data structure. There is no requirement for functional interrelationships between some unknown data structure and some unspecified claimed aspects of the invention which permit the data structure functionalities to be realized.

Thus, the premise of the rejection seems to be that the claim involves a data structure when in fact it calls for a medium that stores instructions that enable a system to do certain tasks. Necessarily, these cannot be data structures but must be instructions or software. Therefore the rejection should be reversed.

C.   **Are claims 1, 2, 5, 6, 9-11, and 14 anticipated under 35 U.S.C. § 102(e) by Hosain (US 7,092,696)?**

Reversal is requested because the office action does not accurately address the claims. The claims call for closing packet data service application software if a mobility management state is idle.

Thus, packet data service application software is closed if the mobility management state on a mobile subscriber is idle. The office action and, particularly, the advisory action, turns this limitation on its ear in order to make out an untenable rejection. First, the rejection states that the Applicant argues that the rejection "fails to disclose an action being taken dependent on mobility management mode or a state being idle." But then the advisory action indicates that it is disclosed in Hosain "where mobility management is one of the accounting components employed." Thus, the rejection states that "Hosain discloses turning off mobility management in the vent that an idle state is achieved, where turning off mobility management (column 8, lines 9-7) clearly involves turning off the corresponding component."

Of course, the issue is not turning off mobility management. When mobility management is idle, the claim calls for automatically closing data service applications. Instead, the Examiner contends that the mobility management software is turned off. This is not what the claim is directed to and is irrelevant. Likewise, the assertion that accounting software and mobility management software are the same is simply untrue. The assertion that a mobility management field corresponds to software is untenable. See column 7, lines 63-65, relied upon in the office action.

At column 8, lines 5-9, the reference suggests that when the mobility management node is in the idle state, mobility management is turned off. But that does not mean that a packet data service application is turned off. There is simply no mention whatsoever of turning off a packet service data application. Just because mobility management is idle or, according to the reference, turned off, does not have anything to do in the cited reference with closing a packet data service application.

The suggestion that turning off the mobility management "clearly involves turning off the corresponding component" is logically and technically untenable. There is no basis for such an assertion and in the prior art this is never the case. To the contrary, there is no reason why any particular application would be turned off because the mobility management state is idle and nothing in the cited reference ever suggests any reason or any basis for turning off the packet data service application.

Therefore, the rejection is wholly without basis and should be reversed.

D. **Are claims 3, 7, and 15 unpatentable under 35 U.S.C. § 103(a) over Hosain (US 7,092,696) in view of Walker (US 5,771,390)?**

For the same reasons set forth above, the rejection should be reversed.

E. **Are claims 4, 8, 12, 13, and 16 are unpatentable under 35 U.S.C. § 103(a) over Hosain (US 7,092,696) in view of Tuomainen (US 20010015963)?**
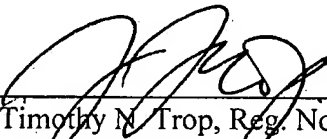
For the same reasons set forth above, the rejection should be reversed.

<p style="text-align:center">*   *   *</p>

Applicant respectfully requests that each of the final rejections be reversed and that the claims subject to this Appeal be allowed to issue.

Respectfully submitted,

Date: June 29, 2007

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CLAIMS APPENDIX

The claims on appeal are:

1.   A method comprising:

automatically closing packet data service application software if a mobility management state is idle.

2.   The method of claim 1, wherein if the mobile subscriber is in a packet data service network, continuing with active packet data service applications if the mobility management state is ready.

3.   The method of claim 1, wherein if the mobile subscriber is in a packet data service network, suspending current packet data service applications if the mobile subscriber is in the standby state.

4.   The method of claim 1, wherein if the mobile subscriber is in a circuit data service network, automatically closing all packet data service applications.

5.   An article comprising:

a medium storing instructions that enable a processor-based system to:

if the mobile subscriber is in a packet data service network, determine the mobility management state of the mobile subscriber; and

automatically close packet data service application software if the mobility management state is idle.

6.   The article of claim 5, further storing instructions that enable the processor-based system to continue processing active packet data service applications if the mobility management state is ready.

7.　　The article of claim 5, further storing instructions that enable the processor-based system to suspend current packet data service applications if the mobile subscriber is in the standby state.

8.　　The article of claim 5, further storing instructions that enable the processor-based system to automatically close all packet data service applications if the mobile subscriber is in a circuit data service network.

9.　　A cellular telephone comprising:

a processor; and

a storage storing instructions that enable the processor, if the mobile subscriber is in a packet data service network, determine the mobility management state of the mobile subscriber and automatically close packet data service application software if the mobility management state is idle.

10.　　The telephone of claim 9, wherein said storage stores second generation and third generation applications.

11.　　The telephone of claim 9, wherein said processor is an application processor.

12.　　The telephone of claim 11, including a baseband processor.

13.　　The telephone of claim 12, wherein said baseband processor stores a call model.

14.　　The telephone of claim 9, wherein said storage stores instructions that enable the processor to continue processing packet data service applications if the mobility management state is ready.

15.　　The telephone of claim 9, wherein said storage stores instructions that enable the processor to suspend current packet data service applications if the mobility management state is standby.

16. The telephone of claim 9, wherein said storage stores instructions that enable the processor to automatically close all packet data service applications if the telephone is in a circuit data service network.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.